

FLEISCHMAN AND WALSH, L. L. P.

ATTORNEYS AT LAW

A PARTNERSHIP INCLUDING A PROFESSIONAL CORPORATION

1919 PENNSYLVANIA AVENUE, N. W.

SUITE 600

WASHINGTON, D. C. 20006

TEL (202) 939-7900 FAX (202) 745-0916

INTERNET www.fw-law.com

SETH A. DAVIDSON

(202) 939-7924

SDAVIDSON@FW-LAW.COM

May 24, 2007

VIA ELECTRONIC FILING

Ms. Marlene Doi-tcli

Secretary

Federal Communications Commission

445 12th Street, SW, Room TWB-204

Washington, DC 20554

**Re: Notice of Ex Parte Communication
EB Docket No. 06-119
EB Docket No. 04-296**

Dear Ms. Doi-tcli:

On May 23, 2007, William Pitts, President of Government Affairs, the NTI Group, Inc. ("NTI"), and Seth Davidsoii of Fleischman and Walsh, L.L.P. met in separate meetings with Cristina Pauze and Angela Giancarlo, legal advisors to Commissioner Robert McDowell and with Rick Chesson, legal advisor to Commissioner Michael Copps, regarding the above-referenced proceedings. The preseiiatioii focused on the arguments and proposals contained in NTI's comments in these proceedings. A copy of written material provided to those attending the meetings and not previously included in the record is attached.

In accordance with section 1.1206 of the Commission's rules, an electronic copy of this notice is being submitted for inclusion in the record of each of the above-referenced proceedings.

Respectfully submitted,

Seth A. Davidsoii
Counsel for the NTI Group, Inc.

cc: Cristiiia Pauze
Angela Giancarlo
Rick Chesson
194344

Time-sensitive Notification (TSN) System for Government Entities

Key Questions to Consider Regarding TSN Service Specifics

1. Describe how your service is designed specifically to meet the needs of government entities.

Government entities will need a system that:

- a. Comes pre-populated with residential and business telephone data that is geo-coded
- b. Allows users to target recipients in an impacted area easily, by drawing points on a map
- c. Can automatically integrate with the administration's HR database to load and update staff data
- d. Can target recipients by creating calls list that are intuitive for government users and department-specific users
- e. Provides the option to require a PIN be entered by an employee before a confidential message is played
- f. Includes survey functionality for two-way communication
- g. Is backed with a client care organization that provides scripts and guidance relative to issues that are in the public interest to ensure receptiveness from the citizenry
- h. Allows for the inclusion of private numbers/additional numbers on a case-by-case basis as required by the citizenry

2. Are you offering a full service ASP? Is there any hardware, software, or additional phone lines needed to use any portion of the services discussed in your responses?

Many providers respond that they have an ASP solution but they attempt to sell hardware based solutions with an on-call ASP system for emergency purposes (requiring a contingency budget be set aside for per-call fees and limiting the likelihood that a user will know how to use the system when in a crisis situation). Others sell a full-service ASP but also bid services available only via their auto-dialer solution. Still others believe that hosting a customer's auto-dialer in the vendor's data center is an ASP. Clarify that all services and functionality being discussed are serviced through the ASP and that the purchaser is not responsible for the acquisition or maintenance of any hardware.

3. What percentage of your company is focused on delivering time-sensitive outbound telephone calls? Do not include resources (hardware, technical support, employees, etc.) used for campaign calls or collection calls in this response.

Local and State government leaders need a service provider with extensive experience delivering a large number of time-sensitive telephone calls (not including SMS, email, and other text messages) within small, targeted geographic regions. This is the most difficult type of call to deliver but, during an urgent situation, it is crucial.

The local Telco infrastructure is built to handle less than 20% (frequently between 5-10%) of its customers picking up the telephone simultaneously. The pipe is small. Providers that lack experience will unknowingly force the Telco to constrict capacity when they blast a large number of calls at once. Although it's absolutely necessary, few providers proactively utilize algorithms to detect local capacity at each point of every call rather than forcing the Telco to be reactive. Even providers that serve large corporations tend to lack this experience as their calls are spread across multiple cities and states rather than delivered within a small geographic zone (such as is required by a school district).

4. Describe your experience sending time-sensitive voice messages to telephones. How many years have you sent calls via your hosted (ASP) service? How many years have you been delivering calls recorded in the user's own voice via your ASP service on behalf of government leaders (Mayors, School Superintendents, etc.)?

Ensure that the provider clearly understands this issue and has proven experience and technical expertise delivering a large number of calls within a small geographic zone. Is the provider new to delivering time-based notifications as a hosted provider on behalf of government entities? If so, the provider may lack experience routing calls and navigating network congestion. Further, their ability to offer best practices relative to usage will be diminished. Do they have significant experience delivering calls in the user's own voice? Voice message delivery to telephones is the most important and difficult component to any system.

It is crucial that the system be used heavily on a regular basis (daily) to ensure that the provider knows how to navigate local congestion and has the appropriate alarms established so that they can identify problems before they are problems for the client's users.

A hardware provider with a back-up emergency ASP rarely can demonstrate this level of experience. Further, new entrants (less than 3 years experience) frequently experience difficulty delivering messages, especially as they grow. Those focused upon campaign calls or collection calls typically lack experience relative to delivering time-sensitive calls within small geographic zones so you should request that non time-sensitive calls be removed from this level of reporting. Time-sensitive should be measured in hours.

5. Describe your company's disaster recovery and business continuity procedures. How are you equipped to provide services when your company experiences an unforeseen event?

Any single point of failure will result in clients not being able to deliver calls. At a minimum, systems should be housed in data centers that span the national power interconnects. Multiple Telco partners should be utilized, not a company's own auto-dialer farms. Multiple delivery paths should also be used regularly including landline, VoIP, and text.

Many providers forget to include their customer service representatives in their plan. Representatives should be located in multiple states that span the national power interconnects, they should have telephone plans across carriers and network types - standard

landline, wireless, and VoIP - and they should be cross-trained on each vertical supported. Look for a company that has an agreement with a business continuity partner and has ~~an~~ independent business continuity audit performed annually.

6. What is your contracted capacity (via SLAs with Telco providers) per year? Are these SLAs with multiple Telco partners?

An ASP service must have contracted capacity via Telco providers to ensure that it can service all of its accounts and avoid brown outs. Multiple Telco providers help provide an added layer of redundancy. Frequently, coinpallies quote the ability to send "60,000 calls per hour." This means that for all of their accounts they can initiate 60,000 calls per hour (not for each account). Note, initiating calls is different than delivering calls. Initiation refers to the number of ports they have available to dial calls - it does not indicate how quickly calls are received by the recipient. No provider can quote the length of time it will take for a call to be received by ~~an~~ intended recipient as network congestion at the last mile between the local provider and the home will be in fluctuation at all points of every call and is not under the control of the vendor.

Merely quoting their per hour consumption capabilities will not help you understand how much capacity they have secured to originate calls on behalf of all of their accounts. As with a utility company, if too many users are accessing the system at once, the company will experience a brown out. Look for a provider that uses, on average, less than 5% of their contracted capacity.

7. Describe how you address congestion at the local level when delivering calls.

Local phone companies are required to ensure that first responders have access to a percentage of available phone lines at all times. Therefore, when faced with a large volume of calls, they are forced to turn away a portion of those calls if their systems detect a problem.

Less experienced TSN providers will unknowingly shrink the capacity available to them by overwhelming the local Telco at a call's initiation. As most local telecommunication systems are built to handle a small number of the population's calls at any given time, a solid understanding of this issue and how to identify it as each call is being placed, coupled with years of experience delivering a high volume of time-sensitive calls within dense populations every month are the most important indicators of a provider's experience and capabilities to manage your calls efficiently and effectively.

8. Describe your system security and the relevant policies and procedures in place to ensure client data is secured.

Security of the data is of the utmost importance. The provider should employ full-time security personnel, undergo external security audits, and deploy intrusion prevention and detection systems. In addition, a lliglily secure network environment using proven best practices must be utilized hand-in-hand with maintenance, updates, and patching to ensure systems are in the most secure state possible.

For security purposes, data should be encrypted before it is stored in multiple off-site locations. The company's business continuity plan must address how encrypted data previously removed from the server(s) will be restored and, if stored in an off-site location, the length of time required to recover data. Drills should be performed. Multiple data centers that span the national power interconnects should be utilized to ensure up-time.

9. Discuss your system have the ability to send messages either as a general message (one phone number per contact) or crisis message (multiple phone numbers per contact).

During an emergency, the service should call stakeholders on all of their contact points simultaneously, rather than having to decide a priority in which to contact each device. To avoid over-messaging recipients, however, standard informative messages (such as a meeting change notice to employees) should go to just one contact point.

10. Are you offering an unlimited messaging package for all types of voice messages and text messages?

Ensure that the system affords all users to send an unlimited number of calls and/or text messages. Most providers offer government entities pricing based upon a per-message/per minute usage program with a minimum annual purchase. Experience shows that an urgent situation is best handled when information is provided before (when possible), during, and after the incident. Further, the system is most effective when used to communicate both directly with citizens as well as between various departments and their staff members. Just one incident can be incredibly costly when a per-message package is purchased. An unlimited package will also remove the need to set aside contingency funds within each year's budget or to consider whether Federal reimbursement for overages is guaranteed before sending a call.

Finally, usage drives ROI. Those agencies that use the system to communicate routine information on an ongoing basis between departments get the most from their purchase and, because they are familiar with the service, know how to use it with confidence when an urgent and/or unforeseen situation arises.

11. Describe how the service is configured to allow the appropriate access to data and administrative oversight based upon the user's responsibilities within the government entity.

The system must be configured to allow access to certain types of contacts and reports based upon the user's sphere of influence. For instance, the mayor should be able to call all residents, businesses and staff, but he/she may choose to allow the head of the department of health and human services to have access to a select subsection of the government entity's staff and, say, all municipal health facilities. Better vendors will provide the government entity with a tool to modify access rights at the individual level so that they can specify user roles and rights based upon their individual organizational structure.

12. Do you provide contact information or does the government entity have to purchase data directly from the telephone company?

Sourcing E9-1-1 data from the local telecommunications provider can be costly and can take a great deal of time. Further, the E9-1-1 lists can only be used for emergencies, preventing a Mayor from updating his residents during a trash strike, asking farmers to clear brush before fire season, or communicate with residents that there is a water main break or contamination issue. The vendor should provide commercially available residence and business phone numbers that are updated monthly. Better providers will append geo-coded data for use with mapping targeting. They should also allow the government entity to import staff data and any other data that the city has access to. Finally, they should help the government entity collect additional data directly from citizens so that those with private numbers can receive information.

13. To what type of devices can you send messages?

Look for a provider who can send voice messages to landlines, cellular phones, satellite phones and e-mail accounts via streaming audio files. The provider should also be able to handle text messaging to PDAs, wireless phones, and other text receiving devices such as TTY devices.

14. Can your service be used to send standard outreach messages, emergency messages, and surveys?

Many providers' services are designed to send one type of message. Government entities should be able to send outreach messages and surveys in addition to emergency messages; however, the vendor should supply best practices to ensure that the user is compliant with Do Not Call List provisions and that practices and policies around messages are clearly identified so that only those messages that are deemed to be in the public interest are sent.

15. Do you provide users with the ability to target recipients using a map interface? Does the interface allow users to zoom and pan?

Government entities should require vendors to supply a robust mapping tool that will allow users to draw points on a map to target recipients based upon their geo-coded location. Ensure that the vendor does not require mapping software or separate licensing fees. Also ensure that the vendor is supplying data with geo-codes appended and updating that data regularly.

16. Can users create call lists?

Users should be allowed to create an unlimited number of call lists (groups and sub-groups) within their individual accounts. Better providers will also allow the government entity to automatically pre-populate groups and sub-groups that are intuitive to its users. A one size fits all service tends to lack intuitive groups and subgroups designed for government users as they tend to be created for corporations.

17. Do you offer TTY/TDD functionality?

Ensure that the service provider can allow the purchaser to remain ADA compliant.

18. Do you provide a system that allows for the collection of additional information (address, phone number, native language spoken, TTS/TTY information etc.)?

If the service provider requires the purchaser to collect data from residents, business owners, and staff as the only means to getting data in the system, the purchaser will not have a good adoption rate. However, the service provider should include a streamlined solution to allow recipients to add/delete/modify their contact information. A simple online data collection form is sufficient. The government entity may also wish to include mail stuffers in utility bills, with tax statements, and/or in a separate mailing. A good service provider will have sample mailings created for the purchaser as part of their best practices kit.

19. Can a user record a message in his/her own voice and then insert personalized information (e.g., street name, person's name, or zip code)?

Some vendors have text-only services removing the power of delivering messages in the user's own voice. Others allow users to send a message that includes personalized data only when using the text-to-speech function, eliminating the value of delivering the majority of the message in the voice of a credible spokesperson. Look for a provider that can blend personal recordings with text-to-speech functionality to ensure accountability.

20. Does your ASP service have the ability to recognize the home language by household and deliver calls in the recipient's native language? Please describe how the service works.

The system should automatically extract from the database provided the native home language spoken and/or include a mechanism by which the recipient can identify their preferred language (see question 13). When a user elects to record and send a message in a language other than English, he/she simply selects the appropriate language, records the message in that language and the system automatically targets just that section of the database. Some providers include translation services; however, caution should be exercised by the user sending the message that the translation is accurate as slang can be an issue for even the best translation packages.

21. What is displayed on recipients' caller ID? Is it different depending upon the type of call being sent?

Require the vendor to display the phone number desired by each particular user. It is unacceptable to display 411, 911, or a random vendor-specified number that will not be recognizable by the recipient or allow the recipient to reach a governmental employee should they wish to have their phone number removed from the system or get additional information.

22. How are reports documenting results of notifications provided? Include a sample report.

Reports should be e-mailed immediately upon call completion. Aggregate information should be supplied (number reached live, by answering machine, number of bad phone numbers, etc.). It is a security breach to include attachments with personally identifiable information such as which bad phone numbers were identified. That information should be provided, but only after a user logs in to his/her password protected account.

Better service providers will include a reporting dashboard allowing users access to additional information relative to call delivery, database integrity, and recipient receptiveness. Such dashboards should show data applicable to the user's roles and rights (see question 6) based upon their sphere of influence.

23. Describe and list any available reports that can be generated by the system. Describe how each report will benefit administrators.

Look for a provider whose reports provide users with useful information that will help them gauge the effectiveness of their message such as percentage of message listened to, duration of call, number of messages received live versus answering machine, and bad telephone numbers. Data should be exportable and should be accessible at the aggregate level *as well as* per each individual call.

24. Does your service come pre-loaded with scripts?

Require the vendor to supply tested and proven scripts tied to standard issues that government entities have deemed to be in the public interest. Ideally, scripts will be able to relate back to the purchaser's emergency management plan. Better vendors will provide translated scripts as well.

25. Do you offer the ability for a recipient to listen to previous messages sent?

The vendor should include a toll free number that citizens can call to retrieve messages. Require the vendor to play messages sent only to the phone number used to call in (for security purposes). The purchaser may also wish to have a general line where standard messages (approved for anyone to hear) can be accessed or they may wish to tie in to a 311 service.

26. Describe the process a user goes through to send a voice message. Is the process different to send a text message? If so, how?

To ensure a good adoption rate among the purchaser's users (police chief, mayor, city manager, department chair, etc.), the process to send a call must be simple and user-friendly. Recording a voice message should be done via a toll-free phone number not a microphone attached to each user's computer. The user should have the option of typing a script that they can read from when recording the message that can also be sent to text-enabled devices and/or TTY/TDD devices.

27. Does a user have a different process to follow when sending an emergency message? If so, please describe.

Some vendors route emergency calls through a different system than outreach calls. This introduces an added level of complexity to the user during emergency situations. The best system will be consistent and as familiar as possible to the user and the recipient. If the system is sending emergency calls through a different mechanism (for instance, an auto-dialer for outreach calls and the provider's telecommunications network for emergency calls) than outreach calls, the recipient may receive different information on their caller-ID and, thus, disregard the message. Additionally, if two systems are used, the database from which the telephone numbers are being extracted may be inconsistent as they might not have access to the most up-to-date database in both locations. Finally, the two-system approach does not require, by definition, that the ASP portion of the equation be frequently tested.

Require one process for all calls and look for a provider with extensive (+10 million calls per month) experience delivering calls via their ASP.

28. If a user is unable to access an Internet connection, can he/she send a message at any time without talking to an operator? Can the message be sent in his/her own voice?

Should the user be unable to access the Internet, the vendor should supply the ability to record and send a call using just a telephone for both routine and emergency calls. To ensure security, an operator's assistance should not be required. The system should be fully automated so that the user does not have to verbally give the operator his/her private username and password.

29. Provide an integration plan with a corresponding timeline from contract signature through go-live. Clearly identify roles and responsibilities for your company and for the government entity.

Require the vendor to supply references and confirm with those references that the implementation plan being proposed was similar to that experienced by the reference. Ensure that the proposed plan is fully staffed and that roles and responsibilities are clearly identified. Obtain actual implementation milestone dates from the vendor rather than a rough timeline.

The implementation schedule for a well-run ASP should be much easier than that found with a hardware solution. If it looks too complicated – something is wrong. Better providers should be able to upload contact information within a week of contract signature. Further, the solution should be easy to use, should take less than 2 hours per group for most user training (aside from the most comprehensive user), and the provider should supply comprehensive user guides and access to retraining as part of their service offering.

30. Describe the process for transferring and updating data from the purchaser's HR system to your ASP solution.

Is the data transmitted securely? A secured connection and process is required as e-mail does not provide adequate security for personally identifiable information. Confirm with references that the data transfer process was performed as described by the vendor.

31. Are there any limitations on the number of times data transfers can be performed? Do you charge extra to append geo-codes to data?

Some providers charge for updates made more than once per month. Most also charge to append geo-codes so that the user can target recipients using a map interface. Verify with references that data is provided, processed and updated as expressed in the proposal.

32. Describe how each account is maintained long-term. What ongoing care do you provide? Do you provide recommended use guidelines for the system?

You are purchasing the vendor's expertise. The vendor, therefore, should come prepared with a series of questions that help the vendor work with you to identify how the service fits within your overall communication plans as well as the rules and regulations governing communication in your area. The vendor should take responsibility for providing reports that track to the goals of the program. Further, the vendor should supply policies and practices guidelines based upon actual usage of other clients of similar size.

Most vendors simply set up the account, train users, and then reactively respond to lost passwords. Rarely do they provide proactive, long-term client care to verify that your users are using the system to its fullest. Find a vendor that encourages the client to use the system, not punish them by imposing call overages or per-call charges.

33. Who will handle general issues such as lost passwords?

Require the provider to handle all issues. The purchaser of an ASP should not need to devote any resources to standard questions/issues that their users might experience.

34. How should the user work with your organization when a technical problem has been identified?

All users, and not only a predetermined subset of users, should have direct access to vendor-supplied customer support for any issue. The vendor should clearly outline what procedure will be followed to ensure that the government entity's primary contact that oversees the service is aware of the issue and that a clear communication plan during the incident is in place until the problem is resolved to his/her satisfaction. The vendor should express the protocol used internally to report, log, track, and resolve all issues.

35. Document how your staff is hired, educated, and trained to provide guidance specific to your system's users.

Require that customer service representatives, technical developers, and data integration specialists have a thorough understanding of emergency issues and that the vendor proactively trains their staff. Further, support services should be available to all users 24/7/365.

36. Are customer service representatives available 24/7/365? Are there any limitations or additional charges?

Require that customer service representatives, technical developers, and data integration specialists have a thorough understanding of emergency issues and that the vendor proactively trains their staff. Further, support services should be available to all users 24/7/365

37. When assistance is required, are support representatives available over the phone, via e-mail, or both? What is the response time?

Support should be immediately available over the phone 24/7/365 by in-house client care professionals, not outsourced call centers. Further, the representative should have access to information relative to that particular user's account, an understanding of the client's procedures and knowledge of times-sensitive notification best practices.

38. How is the fee structure for unlimited calls determined?

The standard metric by which competitive products are priced is based upon the number of contacts (recipients) included in the database. Some vendors include staff in their pricing, others waive the fee associated with staff. Other vendors charge different rates depending upon the service offering (fees for geo-coding, regular data updates, and/or platinum support). Ensure that you understand what is included in the price so that you are accurately evaluating pricing from vendor to vendor.

39. What is your quote for an unlimited number of calls?

Many providers include charges per phone call or charges per phone call once a certain threshold has been exceeded. Having to estimate a reserve budget for per-call fees charged to use an ASP system during an emergency situation is distracting and reduces the value of the system overall. Users cannot count on repayment from a Federal agency, such as FEMA, for call overages.

40. What is your fee to set up and install the system?

Fees can vary significantly from vendor to vendor. The best vendors include set-up and training fees in their base costs, and do not charge additional fees for re-training current users or new training sessions for new users, and do not charge the client for travel and related expenses.

41. Does your pricing include data for contacts? Do you append geo-codes to data for that price? How frequently is data updated?

Require vendors supplying data to identify whether additional fees are associated with providing data, refreshing data, and appending geo-codes. The vendor must provide commercially-available residence and business phone data to allow the agency to make calls relative to routine issues such as water main breaks, planned power outage and restoration issues, etc.. The E9-1-1 lists can only be used for emergencies, preventing a Sheriff from calling the county to report a missing Alzheimer's patient or informing businesses of street closures.

42. Are there any additional fees for services/functionality that you have discussed with us that are not already included in your bid?

Have the vendor verify that all fees to utilize the system, for all features being discussed, are fully disclosed. Frequently, there are add-on fees for various features. Further, many providers of blended systems (auto-dialer + ASP for emergency situations) do not fully disclose which features are only available via their auto-dialer system.

43. Do you provide a multi-year agreement?

It may be possible for the government agency to protect against price increases.